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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,719	05/16/2002	Thomas R. Ricono	P24624 USA	2560
23307	7590	03/02/2004	EXAMINER	
SYNNESTVEDT & LECHNER, LLP			SELF, SHELLEY M	
2600 ARAMARK TOWER			ART UNIT	
1101 MARKET STREET			PAPER NUMBER	
PHILADELPHIA, PA 191072950			3725	13

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/905,719

Applicant(s)

RICONO ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-42, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22, 23, 26, 35, 36, 42, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 27-34, 37-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 3, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 23, 26 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrisin, III et al. (5,875,555). With regard to claims 22 and 42, Andrisin discloses a pencil sharpener comprising a first longitudinally elongated external shell (12) having internal ribs defining a first plurality of support surfaces (36), a sharpening sub-assembly (20, 22, 24), a second longitudinally elongated external shell (14) mated with said first external shell, said second external shell having internal ribs defining a second plurality of support surfaces (col. 5, lines 11-13); wherein each support surface extends along an edge of a respective internal rib (37)

and wherein said first and second pluralities of support surfaces cooperate with each other to laterally position and fixedly retain said sharpening sub assembly within said shells.

With regard to claim 23, said first and second pluralities of support surfaces serve as the sole means of mounting said sharpening sub-assembly.

With regard to claim 26, Andrisin discloses an electric motor (288) operatively connected to said sharpening sub-assembly, said first and second pluralities of support surfaces cooperating with each other to engage and retain said electric motor, said first and second pluralities of support surfaces serving as the sole means for mounting said electric motor in said compartment.

***Claim Rejections - 35 USC § 103***

Claim 35, 36 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrisin, III et al. (5,875,555) in view of Nakazanki (3,746,061). Andrisin discloses a pencil sharpener comprising a first external shell (12) having internal ribs (36), a cutter assembly (20, 22, 24), a second external shell (14) mated with said first external shell wherein each rib comprises a first side and a second side opposite said first side, each of said first and second sides adjoining one of said first and second external shells, each of said first and second pluralities of support surfaces extending between a respective first and second side of a respective rib (37); and wherein said first and second pluralities of support surfaces cooperate with each other. Andrisin does not disclose a cutter assembly defining a ring flange and having a rotatable pinion; a cutter gear module including an annular ring gear meshing with said pinion whereby said cutter assembly is rotatably supported at one end by said gear module. Nakazanki teaches in a similar art the use of a cutter gear module having a ring gear meshing with a pinion

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and a cutter assembly including flange and rotatable pinion (figs. 3,5,6-8,11,12). Nakazaki teaches this construction so as to position a and efficiently sharpen a pencil. Because the references are from a similar art and deal with a similar problem sharpening a writing implement, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Andrisin's gear and cutter module with one having a pinion, ring gear and flange as taught by Nakazaki so as to efficiently sharpen a pencil.

### ***Allowable Subject Matter***

Upon further consideration and due to the newly applied applicable prior art reference, Andrisin some indicated allowable subject matter in a previous Office Action is withdrawn. Claims 24, 25, 27-34, 37-41 and 46 contain allowable subject matter and are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim.

### ***Response to Arguments***

Applicant's remarks have been carefully considered but are not deemed moot in view of the new grounds of rejection above. The prior art reference Andrisin was made of record in the previous Office Action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The

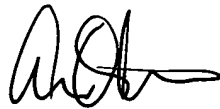
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examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf

February 17, 2004

A handwritten signature in black ink, appearing to read 'A. Ostrager', with a long horizontal flourish extending to the right.

**ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**